

## § 54.316

## 47 CFR Ch. I (10–1–08 Edition)

designated disaggregation zones of support within the carrier's study area.

[66 FR 30089, June 5, 2001, as amended at 66 FR 59727, Nov. 30, 2001]

### § 54.316 Rate comparability review and certification for areas served by non-rural carriers.

(a) *Certification.* Each state will be required annually to review the comparability of residential rates in rural areas of the state served by non-rural incumbent local exchange carriers to urban rates nationwide, and to certify to the Commission and the Administrator as to whether the rates are reasonably comparable, for purposes of section 254(b)(3) of the Telecommunications Act of 1996. If a state does not rely on the safe harbor described in paragraph (b) of this section, or certifies that the rates are not reasonably comparable, the state must fully explain its rate comparability analysis and provide data supporting its certification, including but not limited to residential rate data for rural areas within the state served by non-rural incumbent local exchange carriers. If a state certifies that the rates are not reasonably comparable, it must also explain why the rates are not reasonably comparable and explain what action it intends to take to achieve rate comparability.

(b) *Safe harbor.* For the purposes of its certification, a state may presume that the residential rates in rural areas served by non-rural incumbent local exchange carriers are reasonably comparable to urban rates nationwide if the rates are below the nationwide urban rate benchmark. The nationwide urban rate benchmark shall equal the most recent average urban rate plus two weighted standard deviations. The benchmark shall be calculated using the average urban rate and standard deviation shown in the most recent annual *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* published by the Wireline Competition Bureau. To the extent that a state relies on the safe harbor, the rates that it compares to the nationwide urban rate benchmark shall include the access charges and other mandatory monthly rates included in the rate survey published in the most recent an-

nual *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service*. The *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* is available for public inspection at the Commission's Reference Center at 445 12th Street, S.W., Washington, D.C. 20554 and on the Commission Web site at [www.fcc.gov/wcb/iatd/lec.html](http://www.fcc.gov/wcb/iatd/lec.html).

(c) *Definition of "rural area."* For the purposes of this section, a "rural area" is a non-metropolitan county or county equivalent, as defined in the Office of Management and Budget's (OMB) Revised Standards for Defining Metropolitan Areas in the 1990s and identifiable from the most recent Metropolitan Statistical Area (MSA) list released by OMB. At a state's discretion, a "rural area" may also include any wire center designated by the state as rural for the purposes of this section. In the event that a state designates a wire center as rural, it must provide an explanation supporting such designation in its certification pursuant to paragraph (a) of this section.

(d) *Schedule for certification.* Annual certifications are required on the schedule set forth in § 54.313(d)(3), beginning October 1, 2004. Certifications due on October 1 of each year shall pertain to rates as of the prior July 1. Certifications filed during the remainder of the schedule set forth in § 54.313(d)(3) shall pertain to the same date as if they had been filed on October 1.

(e) *Effect of failure to certify.* In the event that a state fails to certify, no eligible telecommunications carrier in the state shall receive support pursuant to § 54.309.

[68 FR 69626, Dec. 15, 2003]

## Subpart E—Universal Service Support for Low-Income Consumers

### § 54.400 Terms and definitions.

As used in this subpart, the following terms shall be defined as follows:

(a) *Qualifying low-income consumer.* A "qualifying low-income consumer" is a consumer who meets the qualifications for Lifeline, as specified in § 54.409.

(b) *Toll blocking.* "Toll blocking" is a service provided by carriers that lets

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consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

(c) *Toll control*. “Toll control” is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

(d) *Toll limitation*. “Toll limitation” denotes either toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, “toll limitation” denotes both toll blocking and toll control.

(e) *Eligible resident of Tribal lands*. An “eligible resident of Tribal lands” is a “qualifying low-income consumer,” as defined in paragraph (a) of this section, living on or near a reservation. A “reservation” is defined as any federally recognized Indian tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments. “Near reservation” is defined as those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior’s Commission of Indian Affairs upon recommendation of the local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: Number of Indian people native to the reservation residing in the area; a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; geographical proximity of the area to the reservation, and administrative feasibility of providing an adequate level of services to the area.

NOTE TO PARAGRAPH (e): The Commission stayed implementation of paragraph (e) as applied to qualifying low-income consumers

living “near reservations” on August 31, 2000 (15 FCC Rcd 17112).

(f) *Income*. “Income” is all income actually received by all members of the household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran’s benefits, inheritances, alimony, child support payments, worker’s compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

[62 FR 32952, June 17, 1997, as amended at 63 FR 2128, Jan. 13, 1998; 65 FR 47905, Aug. 4, 2000; 65 FR 58663, Oct. 2, 2000; 68 FR 41941, July 16, 2003; 69 FR 34600, June 22, 2004]

### § 54.401 Lifeline defined.

(a) As used in this subpart, *Lifeline* means a retail local service offering:

(1) That is available only to qualifying low-income consumers;

(2) For which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403; and

(3) That includes the services or functionalities enumerated in § 54.101 (a)(1) through (a)(9). The carriers shall offer toll limitation to all qualifying low-income consumers at the time such consumers subscribe to Lifeline service. If the consumer elects to receive toll limitation, that service shall become part of that consumer’s Lifeline service.

(b) [Reserved]

(c) Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income consumer voluntarily elects toll limitation service from the carrier, where available. If toll limitation services are unavailable, the carrier may charge a service deposit.

(d) The state commission shall file or require the eligible telecommunications carrier to file information with the Administrator demonstrating that the carrier’s Lifeline plan meets the criteria set forth in this subpart and stating the number of qualifying low-income consumers and the amount of